



PLANNING COMMISSION

Planning & Development Services Department • 201 N. Stone Ave. • Tucson, AZ 85701

Date: May 26, 2022 for meeting scheduled June 1, 2022

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To: Planning Commission

From: Scott Clark
Executive Secretary

Subject: C8-22-04 Underground Transmission Line Relief Special Exception
UDC Text Amendment – Public Hearing (Citywide)

Issue – This item is a public hearing continued from May 11, 2022 to discuss the proposed Unified Development Code (UDC) text amendments to establish a Zoning Examiner Special Exception process which would allow relief from the underground siting requirements for transmission lines in Scenic Corridor Zone (SCZ) overlays and the Gateway Corridor Zone (GCZ) overlays, when certain criteria are met. The public hearing held on May 11, 2022 was continued to allow time for Staff to reconsider conditions C, D, F, H, I, and K, and to consider the addition of the four conditions suggested by the Tucson Underground Coalition.

The proposed special exception is intended for situations where there are physical, archeological, cultural, or financial reasons that make placing utilities underground infeasible. This situation arose from a Zoning Administrator Determination (ZAD) related to the Kino to DeMoss-Petrie (DMP) 138kV Transmission Line Project that was issued on August 25, 2021. It was determined that “the requirement to underground utilities within a Gateway Corridor Zone as indicated in Unified Development Code (UDC) Section 5.5.4.B.1.a, applies to the Kino to DMP 138kV Transmission Line Project.” Please see Attachment A for the August 25, 2021 ZAD. The result of this ZAD was that all new transmission lines in GCZs and SCZs must be installed underground.

On November 23, 2021 the Mayor and Council held an executive session and subsequent study session to discuss the ZAD, and the requirement to underground transmission lines along SCZs and GCZs. At the study session, the Mayor and Council directed staff to “explore conditions under which a special exception process will be followed to explore relief from our existing Scenic and Gateway Corridor requirements.” Please see Attachment B for the materials and the Legal Action Report from the November 23, 2021 study session.

Recommendation – Staff recommends the Planning Commission recommend the underground transmission line relief special exception UDC text amendment (Attachment C) to the City of Tucson Mayor and Council.

Background – The following is the background of events leading to direction from Mayor and Council to create a Special Exception process to allow for relief from the underground siting requirement in SCZs and GCZs in certain situations:

- On July 19, 2021, Tucson Electric Power sent the Planning and Development Services Department (PDSD) a formal request to provide a ZAD on the requirement for undergrounding the Kino to DMP 138kV Transmission Line Project. Please see Attachment D for the ZAD request letter.
- On August 25, 2021, the Zoning Administrator issued a determination that “the requirement to underground utilities within a Gateway Corridor Zone as indicated in Unified Development Code (UDC) Section 5.5.4.B.1.a, applies to the Kino to DMP 138kV Transmission Line Project.” Please see Attachment A for the August 25, 2021 ZAD. The result of this ZAD was that all new transmission lines in SCZs and GCZs must be undergrounded.
- On September 23, 2021, TEP submitted an appeal of the August 23, 2021 ZAD to PSDS, arguing that the ZAD was an incorrect interpretation of the UDC and requesting that the Board of Adjustment hear the appeal and reverse the decision in the ZAD.
- On November 17, 2021, TEP requested that the Board of Adjustment provide the appeal request of the ZAD a 6-month extension. The Board of Adjustment voted 5-0 to grant the extension.
- On November 23, 2021, the Mayor and Council held an executive session and subsequent study session to discuss the ZAD and the requirement to underground transmission lines along SCZs and GCZs. At the study session, the Mayor and Council directed staff to “explore conditions under which a special exception process will be followed, and to explore relief from our existing Scenic and Gateway Corridor requirements.” Please see Attachment B for the materials and the Legal Action Report from the November 23, 2021 study session.
- On March 16, 2022, the Planning Commission held a study session to discuss the Underground Transmission Line Relief Special Exception UDC Text Amendment. At that meeting, the Planning Commission voted 7-0 to set the proposed UDC amendments for a public hearing on April 6, 2022. The Commission’s discussion centered on clarity of the criteria for relief, and more information on the definition of hospital. Prior to the study session two members of the public submitted comments related to the proposed UDC text amendment. Those comments may be found in Attachment E.
- On April 6, 2022, the Planning Commission held a public hearing to review and discuss the Underground Transmission Line Relief Special Exception UDC Text Amendment. At that meeting 25 members of the public spoke related to the proposed code amendment. Of those comments two were in favor of the proposed amendments and 23 were opposed to the amendments. There were also 49 comments submitted via letter/email related to this item (the comments submitted for both public hearings may be found in Attachment F). Those comments were related to concerns about compromised scenic views, diminished property values, concern about historic neighborhoods, concern that the proposal is too flexible, and the need to uphold the intent of the SCZ and GCZ overlays. Due to lack of quorum, the meeting was adjourned prematurely, and the public hearing was continued to the next meeting. The Legal

Action Report may be found in Attachment G and a video of the meeting may be found [here](#).

- On May 11, 2022, The Planning Commission held the continued public hearing to review and discuss the Underground Transmission Line Relief Special Exception UDC Text Amendment. At that meeting 7 members of the public spoke related to the proposed code amendment. Of those comments one was in favor of the proposed amendments and 6 were opposed to the amendments. There were also 44 additional comments submitted via letter/email related to this item prior to continued meeting. Those comments were also related to concerns about compromised scenic views, diminished property values, concern about historic neighborhoods, concern that the proposal is too flexible, and the need to uphold the intent of the SCZ and GCZ overlays. At the meeting, the Planning Commission closed the public hearing and voted 10-0 to continue the item until June 1, 2022, to provide staff time to revise the proposal and to reconsider conditions C, D, F, H, I, and K, and to consider the addition of the four conditions suggested by the Tucson Underground Coalition (See Attachment H for the letter submitted by the Tucson Underground Coalition). The Legal Action Report may be found in Attachment I and a video of the meeting may be found [here](#).

Present Considerations – Pursuant to direction from Mayor and Council, the proposed amendment to the UDC to create a Zoning Examiner Special Exception Process for relief from utility underground requirements of SCZs and GCZs in certain circumstances where there are physical, archeological, cultural, or financial reasons that make placing utilities underground infeasible.

Per UDC section 3.4.3, the Zoning Examiner Special Exception Procedure is one which would allow for relief from those SCZ and GCZ requirement for underground transmission lines. However, this would require a public review and approval process where site specific zoning conditions may be added. A general overview of the process is as follows:

- Mailed neighborhood notification for a neighborhood meeting of all properties within 400 feet of the project and all neighborhood associations within 1 mile of the project prior to the submittal of the application.
- Application submittal detailing how the proposal meets all the requirements of the use-specific standards in the UDC.
- Staff review of the proposal with recommendation to the Zoning Examiner.
- Mailed notice of public hearing sent to all properties within 400 feet of the project and all neighborhood associations within 1 mile of the project.
- Notice of the public hearing posted on site and in local paper.
- Public Hearing before the Zoning Examiner for a decision.
- All appeals directed to Mayor and Council for a final decision.

Examples of other uses that are required to undergo the Zoning Examiner Special Exception Procedure include those for utility distribution systems (such as utility sub-stations), overnight

animal boarding, non-chartered financial institution services, or micro-breweries as an accessory use in the C-1 Zone.

Based on feedback from the Planning Commission at the May 11, 2022, public hearing, the proposal has been modified the following ways:

- Requirement added to meet more than one criterion for approval.
- Criteria C, E, G, and L have been revised address concerns about their clarity and to reduce the generality of the language.
- Criteria D and I have been removed.
- Three criteria I, J, and K have been added that were suggested in the letter from the Tucson Underground Coalition (See Attachment I for the letter from the Tucson Underground Coalition). Criterion 12-m from the Tucson Underground Coalition letter was modified to clarify that this only applies to the area where the applicant is seeking relief.

It should be noted that Criterion 12-n suggested by the Tucson Underground Coalition letter, which would prohibit routing of utility lines through adjacent residential neighborhoods, was not included in the proposal as this proposal is solely related to relief from underground requirements of the GCZ and the SCZ, and is not intended to impose new underground regulations in other zones. The redlined changes to the proposal made between the May 11, 2022, meeting and the June 1, 2022 meeting are located in Attachment J.

The following is a brief description of the proposed amendment.

Current Regulation – All new and replacement utility transmission lines are required be placed underground when located in a Scenic Corridor Zone or Gateway Corridor Zone.

Proposed Revision – Revise the use tables in UDC Sections 4.8.1 through 4.8.7 to include a new Transmission Lines land use type requiring a Zoning Examiner Special Exception Process and adding use specific standards for that Special Exception to UDC Section 4.9.11, and a new definition of Transmission Lines at UDC Section 11.1.1.E. It should be noted a couple changes have been made to the proposed based on feedback from the Planning Commission study session. Clarification related to the applicability of the criteria and how they are to be documented that they are met has been added to Section 4.9.11.A.12, and the criteria in Section 4.9.11.A.12.h related to hospitals has been added. The Special Exception request will be evaluated pursuant to the following criteria:

- Proposed overhead transmission lines are contextually sensitive to adjacent and surrounding zoning and land uses. Examples of this may include a proposed location that is industrially zoned or a proposal that results in a less adverse aesthetic impact or less adverse impact on viewsheds for surrounding properties.
- Underground construction causes significant increase in ground disturbance when compared to overhead construction in sensitive areas such as Environmental Resource

- Zone (ERZ) or Watercourse Amenities, Safety and Habitat (WASH) wash crossings or environmentally and archeologically sensitive areas,
- Minimal impact on residential areas,
 - Overhead lines located on non-Gateway or non-Scenic corridor route that perpendicularly crosses a Gateway Corridor Zone or Scenic Corridor Zone,
 - Repair or upgrade of existing facilities where proposed facilities are similar in size and scale to the existing facilities being repaired or replaced. Replacement facilities may not be any larger than 25% the height or width of existing facilities being replaced,
 - Transmission lines are proposed in an area where there is an existing presence of railroad, highway and/or bridge crossings, or in an area where underground installation would interfere with other existing undergrounded utilities,
 - Proposed transmission lines provide electrical service to critical customers where overhead lines are strongly recommended for specialized operations; examples include but are not limited to: provision of electricity to Davis Monthan AFB or other installations necessary to the national defense,
 - Proposed project in an area where costs to install underground would have a disparate impact on low-income residents,
 - The effects that can be expected from permitting any of the exceptions listed herein or any combination of those exceptions when added together must remain consistent with the overall purpose and integrity of the gateway/scenic route, unless it is technologically impossible and/or clearly financially cost prohibitive,
 - Any new above-ground utility that is permitted must be designed, constructed, and maintained to be as unobtrusive as possible,
 - In the area where the applicant is seeking relief, above ground transmission lines are not allowed in or alongside historic areas (as defined by or listed in the National Register of Historic Places, properties or districts, City of Tucson Historic Preservation Zones, City of Tucson Historic Landmarks, or Neighborhood Preservation Zones),
 - A Special Exception request to relieve the requirement to underground transmission lines that meets the findings established by UDC section 3.4.5, Findings and which also meets criteria a, d, or f of this subsection may only require one criterion for approval when no other criterion apply to the project

Attachments:

- A – August 25, 2021 Zoning Administrator Determination on the TEP Kino to DMP 138kV Transmission Lines Project
B – November 23, 2021 Mayor and Council Materials and the Legal Action Report
C – Draft underground transmission line relief Special Exception UDC text amendment
D – July 19, 2021 TEP Zoning Administrator Determination request
E – March 16, 2022 Planning Commission Study Session Comments
F – Comments submitted for the Planning Commission Public Hearing
G – Planning Commission Legal Action Report 4.6.22
H – Letter from the Tucson Underground Coalition
I – Planning Commission Legal Action Report 5.11.22
J – Redlined changes to proposal made between May 11, 2022 and June 1, 2022